

September 3, 2002

Mr. Robert Eveleigh  
Lawler Manufacturing Co., Inc.  
600 East Ohio Street  
Indianapolis, IN 46202

Re: New International Application  
Title: **MIXING VALVE**  
Applicants/Inventors: KLINE, Kevin B  
Priority Claim: U.S. Serial No. 60/314,803 Filed August 24, 2001  
Our Matter: 8915-71250

Dear Robert:

Enclosed is a copy of the PCT international application we sent to the Receiving Office of the United States Patent and Trademark Office on August 23, 2002 via Express Mail. All international application deadlines will originate, however, from the earliest priority date of August 24, 2001.

**Designated States**

Pursuant to instructions received, all countries were designated.

**Inventor Power of Attorney and Assignment**

By copy of this letter to Scott Anderson at Foley & Lardner, we are forwarding papers for execution by Kevin Kline and returned to us as soon as possible to respond to the expected Invitation to Correct Defects in the International Application. We ask that Mr. Kline sign and date these documents as marked. Please note that these documents were originally sent for signature on August 13, 2002. Also, we ask that Mr. Kline forward his comments regarding the application to us as soon as possible.

**Searching Authority**

The United States Patent Office will now conduct a patent search and issue a PCT International Search Report on or about December 24, 2002. We will send that report to you for consideration by you and the inventors, and we will work with you to assess whether or not the claims in this PCT international application require some amendment.

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**International Examination or Direct National/Regional Patent Filing**

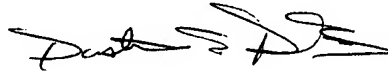
Once the International Search Report has been evaluated, you can elect either to:

- (1) bypass the rest of the PCT international patent process and file the application directly in one or more of the nations/regions designated in the original PCT application; or
- (2) file a DEMAND to request international preliminary examination on or before March 24, 2003 and thereby delay the deadline for direct national/regional patent filing until at least February 24, 2004.

We will solicit your instructions for pursuing either of options (1) or (2) after evaluating the International Search Report.

If you have any questions regarding the enclosures or procedures, please feel free to me at (317) 231-7504.

Sincerely,



Dustin S. DuBois

DSD/hzs/473994  
Enclosures

cc: Scott Anderson, Esq. (w/ enclosures)  
Jill T. Powlick, Esq. (w/o enclosures)

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**Certified Article Number**

**7106 4575 1294 4319 6381**

**SENDERS RECORD**

October 15, 2002

*via certified mail*

Mr. Kevin Kline  
 Apartment 101  
 800 East Henry Clay Street  
 Whitefish Bay, WI 53217

Re: Formal papers for PCT Patent Application No.: PCT / US02 / 27056  
 Our Reference No.: 8915-71250

Dear Kevin:

As you may recall, I represent Lawler Manufacturing Co., Inc. ("Lawler") and I write to you today on Lawler's behalf. As you are aware, we have filed a PCT application on Lawler's behalf in which you are a named inventor. We have enclosed a copy of that application as-filed in the United States Patent Office as the Receiving Office. This application is based on subject matter that you acknowledged in the Settlement Agreement of 5 March 2001, is property of Lawler. While we can proceed without your cooperation, your cooperation would facilitate proceedings relating to this application.

We enclose with this letter three documents that we ask you to sign and return to us no later than **October 29, 2002**. If we have not received all of these documents by this date, we will consider it a refusal by you to sign the document(s) that you have not signed and returned to us. While we appreciate your cooperation, it is your choice to sign. If your choice is to not sign one or more of the documents, we ask that you sign the attached notice and return it to us at the above address or by fax at the fax number above.

We have, until this letter, communicated to you through Scott Anderson of Foley and Lardner. We did this because Foley and Lardner served as your counsel. Recently, we were informed by Foley and Lardner that they no longer represent you personally. Thus, we are communicating directly with you instead of through Foley and Lardner. Please contact us as soon as possible if you prefer that we communicate to you through an attorney. Simply call us with the necessary contact name, address, and telephone number, and we would be happy to communicate to you in that manner.

Be advised that we are not your attorneys. We encourage you to speak with your own attorney about this letter, the enclosed Request, the Assignment, and the Declaration and Power of Attorney ("Declaration") to be used once we nationalize this PCT application in the United States Patent and Trademark Office. Although we enclose documents that, if executed by you, would permit us to file certain papers during the proceedings of this application without further communications

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**TO:** Mr. Kevin Kline  
Apartment 101  
800 East Henry Clay Street  
Whitefish Bay, WI 53217

**SENDER:** Dustin DuBois/Heather Behlmer

**REFERENCE:** 8915-71250

PS Form 3800, June 2000

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	.37
	Return Receipt Fee	2.30
	Restricted Delivery	1.75
	Total Postage & Fees	4.42

US Postal Service  
**Receipt for  
Certified Mail**

Insurance Coverage Provided  
Not Use for International Mail

POSTMARK OR DATE

SENDER:

Reference Information  
8915-71250  
Dustin DuBois/Heather Behlmer

Is delivery address different from item 1? If YES, enter delivery address below:

☐ Agent  
☐ Addressee  
☐ Yes  
☐ No

Signature

Received by (Please Print Clearly)

B. Date of Delivery

COMPLETE THIS SECTION ON DELIVERY

Mr. Kevin Kline  
October 15, 2002  
Page Two

with you, we remind you that we are not your attorneys. By speaking with your own attorney you may gain a better understanding of the effect of signing each of the enclosed documents.

United States rules with respect to patent applications require applicants to sign the **Request**. We have provided a line in Box ten (Box X on page 6) of the enclosed Request above which you should sign if you so choose. Your name appears typed below this line. We have enclosed a copy of a **Declaration and Power of Attorney** for use when we nationalize in the United States and an **Assignment** (which we also submitted to you in our earlier communications). We also request that you sign the Declaration and Power of Attorney and the Assignment.

Please review the enclosed application carefully and, if everything appears to be complete and correct, sign the enclosed **Declaration and Power of Attorney** and return it to us for filing in the Patent Office along with the application. By signing the Declaration, you are declaring that you are an inventor of the claimed subject matter and that you have reviewed and understood the contents of the application including the patent claims. **If you find that changes need to be made to the application, please do not sign the Declaration. Communicate your proposed changes to us so that we can consider them.** To meet our deadlines, we will need your comments in advance of the October 29, 2002 date to receive the executed documents discussed in this letter.

Also enclosed is an **Assignment** which assigns the rights in this invention to Lawler Manufacturing Co., Inc. In executing this document, you will need to sign this Assignment before a Notary Public and return it to us along with the signed Declaration and Power of Attorney. This assignment is to confirm Lawler's rights in the subject invention as provided in the 5 March 2001 Settlement Agreement.

Again, Kevin, we will consider failure to execute and return the enclosed documents to us before October 29, 2002 to be a refusal by you to sign the document(s) not so executed and returned. If you have any questions, do not hesitate in contacting me directly at (317) 231-7774 or my colleague Jill Powlick at (317) 231-7504.

Sincerely,



Dustin S. DuBois

DSD:mb:483072

Enclosures: (Application PCT / US02 / 27056;  
Assignment;  
Declaration and Power of Attorney;  
Notice of Unwillingness to Execute Documents;  
Request)

bcc: Eric Moy, Esq. (w/o enclosures)  
Steve Ferrucci, Esq. (w/o enclosures)

BARNES & THORNBURG

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To: Dustin S. DuBois  
Barnes & Thornburg  
11 South Meridian Street  
Indianapolis, IN 46204

NOTICE OF UNWILLINGNESS TO EXECUTE DOCUMENTS

Re: PCT Patent Application Serial No. PCT / US02 / 27056  
**Mixing Valve**  
Our Reference: 8915-71250

I, Kevin B. Kline, hereby give notice that I am unwilling to execute the **Assignment** for the subject patent application, a copy of which I received.

\_\_\_\_\_  
Kevin B. Kline

Date: \_\_\_\_\_

I, Kevin B. Kline, hereby give notice that I am unwilling to execute the **Declaration and Power of Attorney** for the subject patent application, a copy of which I received.

\_\_\_\_\_  
Kevin B. Kline

Date: \_\_\_\_\_

I, Kevin B. Kline, hereby give notice that I am unwilling to execute the **Request** for the subject patent application, a copy of which I received.

\_\_\_\_\_  
Kevin B. Kline

Date: \_\_\_\_\_



Dustin S. DuBois, Esq.  
ICE MILLER  
One American Square  
Box 82001  
Indianapolis, IN 46282-0002

In re Application of	:	
Lawler Manufacturing Co., Inc.	:	DECISION ON
PCT No.: PCT/US02/27056	:	
Int. Filing Date: 23 August 2002	:	PAPERS UNDER
Priority Date: 24 August 2001	:	
Attorney's Docket No.: 8915-71250	:	37 CFR 1.425
For: Mixing Valve	:	

This is in response to the "Petition Under 37 C.F.R. § 1.425" filed on 25 June 2003.

### **BACKGROUND**

On 31 March 2003, a Decision on a petition under 37 CFR 1.425 (filed on 13 January 2003) was mailed to applicant. That petition was dismissed without prejudice because petitioner had not established that non-signing applicant/inventor Kevin B. Kline had refused to sign the PCT Request form (nor that he could not be found or reached after diligent effort).

### **DISCUSSION**

Counsel indicates that the absence of Mr. Kline's signature results from a legal dispute among Mr. Kline, applicant Lawler Manufacturing Company, and "Bradley," and that "Mr. Kline has, even upon the advice of counsel, not signed the Request." Counsel "urges the Examiner to give greater weight to the facts that Mr. Kline has to this day failed to provide any commentary on the application to Agent or Applicant Lawler, and has failed to sign the Request, and lesser weight to the arguably self-serving comments Mr. Kline formulated in his letter of November 1, 2002." Upon reconsideration of the totality of the record, including the instant renewed petition, it would be appropriate to conclude in this instance that Mr. Kline has refused to sign a Request in this international application.

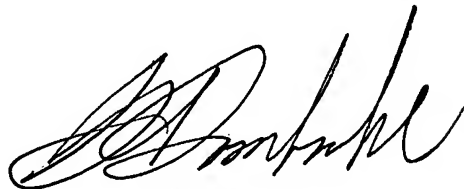
**DECISION**

For the above reasons, the petition under 37 CFR 1.425 is **GRANTED**.

This application is being forwarded to the United States receiving Office (RO/US) for further processing.



Leonard Smith  
PCT Legal Examiner  
PCT Legal Office



George M. Dombroske  
PCT Legal Examiner  
PCT Legal Office  
Tel: (703) 308-6721  
Fax: (703) 308-6459





Dustin S. DuBois, Esq.  
BARNES & THORNBURG  
11 South Meridian Street  
Indianapolis, IN 46204

November 1, 2002

RECEIVED

NOV 08 2002

BARNES & THORNBURG

VIA FAX #317-231-7433  
& FIRST CLASS MAIL

Re: PCT Patent Application No. 60/314,803  
Your Reference: PCT/US02/27056; #8915-71250

Dear Mr. DuBois:

I am in receipt of your letter and materials dated October 15, 2002. As I communicated through counsel I hired as a result of your letter, I have neither the time nor resources to review and consider the patent application and related materials you sent to me with a short deadline. While I thank you for extending the deadline by a few days in order for my counsel to review the matter, I have been too busy with my job to seriously analyze and assist with the subject patent application in the time allotted. You indicated to my counsel that Lawler was unwilling to assist my cooperation by providing me the time or anticipated out-of-pocket fees or costs that I faced respecting this patent application if I was in a position to assist Lawler in this instance.

After incurring legal fees to review this situation, I am advised that the Settlement Agreement entered into between Lawler and myself on March 5, 2001 does not obligate me to expend the time necessary (especially on an urgent basis) to consider this patent application for Lawler. As you advise in your letter of October 15, 2002, Lawler is able to proceed without my assistance in the patent application process. Accordingly, due to Lawler's own time restrictions and ability to proceed without my assistance, and upon my counsel's advice, I have not signed the papers you sent me. If Lawler somehow deems this a breach of my obligations to it, I would appreciate notice and the opportunity to rectify the situation. Otherwise, I trust it can proceed without me.

Accordingly, because I have not reviewed the foregoing patent application, I am unable to sign the Assignment, Declaration and Power of Attorney, or PCT Request which relate to the same and which you forwarded to me by letter of October 15, 2002. Please direct any further responses or inquiries respecting this matter to my counsel, Kathleen Lee, of Bose McKinney & Evans, 317-684-5252. Thank you.

Very truly yours,

Kevin B. Kline

Cc: Kathleen Lee, Esq.



68926  
UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

NOVEMBER 02, 2001

PTAS



\*101832515A\*

BARNES & THORNBURG  
JILL T. POWLICK  
11 SOUTH MERIDIAN STREET  
INDIANAPOLIS, IN 46204

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 08/24/2001

REEL/FRAME: 012122/0304  
NUMBER OF PAGES: 11

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
KLINE, KEVIN B.

DOC DATE: 03/05/2001

ASSIGNEE:  
LAWLER MANUFACTURING, INC.  
600 EAST OHIO STREET  
INDIANAPOLIS, INDIANA 46204

SERIAL NUMBER: 60314803  
PATENT NUMBER:

FILING DATE: 08/24/2001  
ISSUE DATE:

SHAREILL COLES, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

09-04-2001

D. at No.: 8915-68926

FORM PTO-1595 (Modified)  
(Rev. 6-93)  
OMB No. 0651-0011 (exp. 4/94)  
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P08/REV02



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U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Tab settings → → → ▼

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Kevin B. Kline

8-24-01

2. Name and address of receiving party(ies):

Name: Lawler Manufacturing, Inc.

Internal Address: \_\_\_\_\_

Additional names(s) of conveying party(ies) ☐ Yes ☒ No

3. Nature of conveyance:

- ☒ Assignment ☐ Merger  
(Excerpts from Settlement Agreement)  
☐ Security Agreement ☐ Change of Name  
☐ Other \_\_\_\_\_

Execution Date: 5 March 2001

Street Address: 600 East Ohio Street

City: Indianapolis State: IN ZIP: 46204

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or registration numbers(s):

If this document is being filed together with a new application, the execution date of the application is: August 24, 2001

A. Patent Application No.(s)

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Jill T. Powlick

Internal Address: Barnes &amp; Thornburg

Street Address: 11 South Meridian Street

City: Indianapolis State: IN ZIP: 46204

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): \$ 40.00

☒ Enclosed - Any excess or insufficiency should be credited or debited to deposit account☐ Authorized to be charged to deposit account

8. Deposit account number:

10-0435

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Jill T. Powlick

Name of Person Signing

Signature

August 24, 2001

Date

19

Total number of pages including cover sheet, attachments, and documents